IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 719 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

R B TRIVEDI

Versus

DIST PANCHAYAT

Appearance:

1. Special Civil Application No. 719 of 1991

MR PV HATHI for Petitioner No. 1

MR HS MUNSHAW for Respondent No. 1-2

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 19/12/2002

ORAL JUDGEMENT

#. The petitioner has challenged in this petition the impugned order dated 12.1.1989 Annexure-B passed by

respondent No.2 whereby penalty of stoppage of three increments with future effect was imposed against her. She has also challenged the impugned order dated 22.2.1990 Annexure-D passed by Gujarat Civil Services Tribunal, Gandhinagar (for short "the Tribunal") and the impugned order at Annexure-E dated 26.3.1990 passed by the respondent No.1

#. Learned counsel Shri Hathi appearing for the petitioner relying upon several judgments of Hon'ble Supreme Court as well as this court submitted that the penalty of stoppage of three increments with future effect is highly disproportionate, therefore, the same may be suitably modified by removing future effect from the impugned penalty. However, Mr.Munshaw for the respondents submitted that once the impugned order of imposing the penalty of stoppage of three increments with future effect is confirmed by learned Tribunal, then this court should not interfere with such discretionary order.

#. Having heard learned counsel for the parties and having perused the averments made in this petition as well as the contents of the impugned orders challenged by the petitioner in this petition, I am of the considered opinion that though the Tribunal has confirmed the penalty of stoppage of three increments with future effect, the petitioner can always make appropriate representation to the Disciplinary Authority, which has passed the impugned order. If the petitioner makes such representation within one month from today to the concerned authority, the respondent No.2, then I am sure that keeping in mind various judgements of the Hon'ble Supreme Court as well as this court, and the fact that the petitioner has suffered for all these period of more than 11 years by way of pendency of this petition, the authority shall take sympathetic view of the matter and consider her request of reducing the penalty from stoppage of three increments with future effect to stoppage of three increments without future effect. Mr.Munshaw, learned counsel appearing for the authority also assures that if a suitable representative is made by the petitioner, then without being swayed away from the impugned order passed by the learned Tribunal, the respondent authority shall consider the representation of the petitioner and pass appropriate order as a special case. More particularly, when the petitioner is going to retire from the service very soon. It is hoped and trust that the authority shall take decision within two months from the date of the receipt of the representation.

With these observations and directions, this

petition stands disposed of. Rule made absolute to the afore extent only.

(B.J.Shethna, J.)

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